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*Attorneys for Plaintiff*  
MARIBEL MURILLO

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MARIBEL MURILLO, individually  
and as successor-in-interest of the  
estate of deceased, JONATHAN  
MURILLO-NIX,

Plaintiff,

vs.

CITY OF LOS ANGELES, a  
governmental entity; JESUS  
MARTINEZ, individually; KYLE  
GRIFFIN, individually; and DOES 1-  
10, inclusive,

Defendants.

Case No.: 2:22-cv-03188 DMG (SKx)

*[Honorable Dolly M. Gee]  
Magistrate Judge Steve Kim*

**OPPOSITION TO DEFENDANTS'  
EX PARTE APPLICATION  
PURSUANT TO LOCAL RULE 79-  
5.2 TO FILE EXHIBITS UNDER  
SEAL IN SUPPORT OF  
DEFENDANTS JOINT MOTION  
FOR SUMMARY JUDGMENT OR,  
IN THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT**

*[(Proposed) Order filed concurrently  
herewith]*

1        **OPPOSITION TO EX PARTE APPLICATION TO FILE UNDER SEAL**

2        Plaintiff contends that Defendants wrongfully seek to file twelve (12) body-  
3 worn camera (“BWC”) videos and a screenshot of the same, of the subject officer-  
4 involved shooting incident, under seal.

5        Plaintiff contends that these BWC videos and screenshots from the involved  
6 officers show the historical facts of this incident and are directly related to this civil  
7 rights officer-involved shooting death case. Plaintiff contends that these documents  
8 are not confidential, and that nothing in these documents require secrecy from the  
9 public on these very public issues. Further, these documents should not be hidden  
10 from the public because they establish the disputed issues of material fact that  
11 preclude Defendants from summary judgment.

12        The public has a “general right to inspect and copy public records and  
13 documents, including judicial records and documents.” *Ctr. for Auto Safety v.*  
14 *Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016) (internal quotation marks  
15 omitted). Consequently, there is a “strong presumption in favor of access to court  
16 records.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir.  
17 2003). A party who seeks to seal court documents in connection with a dispositive  
18 motion bears the burden of overcoming this presumption by presenting “compelling  
19 reasons supported by specific factual findings.” *Kamakana v. City & County of*  
20 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal quotation marks omitted).

21        Defendants acknowledge the strong presumption of access in civil cases in  
22 their *ex parte* application. Citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d  
23 1122, 1135 (9th Cir. 2003). But Defendants cannot overcome that strong  
24 presumption. Defendants have not met their burden and have not provided  
25 compelling reasons to seal these videos. Defendants merely state that the parties  
26 entered a protective order and that Defendants designated records as confidential.  
27 Defendants’ argument that California evidence code or law should apply is  
28 unpersuasive. Body-worn camera videos capturing the incident in real-time are not

1 investigation records or reports and are not privileged. Plaintiff contends that the  
2 presumption is even stronger when the issue before the Court is one of public  
3 concern – here, civil rights violation.

4 Further, Plaintiff contends that it is possible to redact a video to conceal some  
5 confidential image. However, Defendants do not point to any such image within any  
6 of the videos that would require any such redaction. The only individuals depicted in  
7 the portions of the videos that show the subject officer-involved shooting are  
8 Decedent and the involved officers. Public scrutiny in an officer-involved shooting  
9 case should be encouraged by the City of Los Angeles and its police department, not  
10 suppressed. Defendants argue that the videos should not be shown publicly yet the  
11 City of Los Angeles publishes links to critical incident videos that show relevant  
12 excerpts of the body-worn camera videos on their website at

13 [https://www.lapdonline.org/office-of-the-chief-of-police/professional-standards-](https://www.lapdonline.org/office-of-the-chief-of-police/professional-standards-bureau/critical-incident-videos/2022-o-i-s-shootings-and-critical-incidents/)  
14 [bureau/critical-incident-videos/2022-o-i-s-shootings-and-critical-incidents/](https://www.lapdonline.org/office-of-the-chief-of-police/professional-standards-bureau/critical-incident-videos/2022-o-i-s-shootings-and-critical-incidents/).

15 The subject Critical Incident video pertaining to this officer-involved shooting  
16 includes audio from 9-1-1 callers, video from several different officers' body-worn  
17 cameras, and investigation photographs. See

18 <https://www.youtube.com/watch?v=TrUdNPOEqj8>. Interestingly, in the Critical  
19 Incident video, the City of Los Angeles blurred (redacted) the faces of the family  
20 members, but not officers. Thus, (1) redaction is possible and (2) public officials  
21 (i.e., officers) acting in the public capacities and in the performance of their public  
22 duties do not need to be redacted.

23 Furthermore, the City of Los Angeles Board of Police Commissioner  
24 adjudicated this use of force incident on January 20, 2023.

25 ([https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-](https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-PR-OIS-FINAL.pdf)  
26 [PR-OIS-FINAL.pdf](https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-PR-OIS-FINAL.pdf).) The County of Los Angeles District Attorney's Office also  
27 published their final report in June of 2023.

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1 (<https://da.lacounty.gov/sites/default/files/pdf/JSID-OIS-06-21-23-Murillo-Nix.pdf>.)

2 Defendants do not point out what ongoing investigation that requires secrecy.

3 Plaintiff contends that Defendant City of Los Angeles has practiced mass,  
4 indiscriminate, and routinized designation of evidence subject to an officer-involved  
5 shooting investigation as confidential. The mere fact that “information may have  
6 been designated confidential pursuant to a protective order is not sufficient  
7 justification for filing under seal.” C.D. Cal. R. 79-5.2.2(a)(i).

8 Finally, Plaintiff will undoubtedly require filing portions of videos,  
9 screenshots of videos, photographs, and statements of involved officers as exhibits  
10 in opposition to Defendants’ motion for summary judgment to show disputed issues  
11 of material fact – which Defendant City has designated as confidential. Just as with  
12 Defendants videos, Plaintiff’s anticipated exhibits are not subject to any open  
13 investigation, do not contain any confidential information, and should not be  
14 concealed from public view in a dispositive motion on a civil rights case.

15 For these reasons, Plaintiff respectfully request that this Court DENY  
16 Defendants’ Application, and order that body-worn camera videos of the incident,  
17 and screenshots thereof, may be filed regularly through the Court’s CM/ECF system  
18 and not under seal.

19  
20 Respectfully submitted,

21 Date: November 6, 2023

**LAW OFFICES OF DALE K. GALIPO**

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23 */s Marcel F. Sincich*

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